

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES LEE GILLENWATER,

Defendant.

NO: CR-11-121-RMP

ORDER MEMORIALIZING
COURT'S RULING RE
CONTINUANCE

A pretrial hearing was held in this matter on September 27, 2011. The Defendant, who is in custody, was present and represented by CJA Attorney Frank Cikutovich. The Government was present and represented by Assistant United States Attorney Timothy J. Ohms.

Before the Court are Defendant's *ex parte* motion, ECF No. 41, for the Court to enter into the record the actions taken after the August 30, 2011, *ex parte* hearing in this matter; Defendant's motion for change of venue, ECF No. 42; and Defendant's motion for transfer of trial, ECF. No. 43.

1 The Court has reviewed the file and motions, has heard from counsel, and is
2 fully informed. This Order is entered to memorialize and supplement the oral
3 rulings of the Court. Accordingly,

4 **IT IS HEREBY ORDERED:**

5 1. Defendant's *ex parte* motion, **ECF No. 41**, is **DENIED**. All of the
6 proceedings that occurred in this matter on August 30, 2011, were recorded by the
7 Court Reporter and are on the record.

8 2. Defendant's motion for change of venue, **ECF No. 42**, and motion for
9 transfer of trial, **ECF No. 43**, are **DENIED with leave to renew** should factual
10 circumstances arise that satisfy the standard set by Fed. R. Crim. P. 21.

11 3. The Court **RESERVES RULING** on the Government's motion *in*
12 *limine*, **ECF No. 45** until the parties have had sufficient time to fully brief the
13 motion and shall be heard at the pretrial conference scheduled below.

14 4. By the Court's Order at ECF No. 51, the trial in this matter is **RESET** for
15 **December 5, 2011, at 9:00 a.m. in Spokane**, Washington.

16 5. A pretrial conference is set for **November 15, 2011, at 10:00 a.m.** with a
17 **final** pretrial conference on **December 5, 2011, at 8:30 a.m.** All hearings shall
18 take place in **Spokane**, Washington.

19 6. Discovery motions and Motions *in limine* shall be filed and served on or
20 before **October 25, 2011**.

1 7. Responses to motions shall be filed by **November 1, 2011**.

2 8. Replies shall be filed by **November 8, 2011**.

3 9. Trial briefs, requested voir dire, and a set of proposed **joint jury**
4 **instructions** shall be filed and served on or before **November 24, 2011**.

5 Jury Instructions should address only issues that are unique to this case and
6 shall include instructions regarding the elements of each claim, any necessary
7 definitions, and a proposed verdict form.

8 Parties shall supply the Court electronically with Joint Proposed Jury
9 Instructions in Word or WordPerfect format and shall include:

10 (a) The instructions on which the parties agree; and

11 (b) Copies of instructions that are disputed (i.e., a copy of each party's
12 proposed version of an instruction upon which they do not agree).

13 All jury instructions from the most current edition of the Ninth Circuit
14 Manual of Model Jury Instructions may be proposed by number. The submission
15 of the Joint Proposed Jury Instructions will satisfy the requirements of LR 51.1.(c).

16 Each party shall address any objections they have to instructions proposed
17 by any other party in a memorandum by **December 5, 2011**. The parties shall
18 identify the specific portion of any proposed instruction to which they object and
19 shall elaborate the basis for the objection. Objections asserting that an instruction
20 sets forth an incorrect statement of law shall describe the legal authority that

1 supports the objection. Failure to file an objection to any instruction may be
2 construed as consent to the adoption of an instruction proposed by another party.

3 **Any attorney who fails to comply with the deadlines or requirements set out in**
4 **this order may be subject to sanctions.**

5 10. Plaintiff's trial exhibits, if any, are to be numbered 1 through 199;
6 Defendant's exhibits, if any, 200 and following.

7 11. The parties are requested to submit courtesy copies of witness and
8 exhibit lists to the Court no later than **12:00 noon the Thursday before trial**
9 **commences.**

10 The District Court Executive is directed to file this Order and provide copies
11 to counsel.

12 **DATED** this 29th day of September, 2011.

13
14 s/ Rosanna Malouf Peterson
15 ROSANNA MALOUF PETERSON
16 Chief United States District Court Judge
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